

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**IN RE:**

**MILLENNIUM MULTIPLE  
EMPLOYER WELFARE BENEFIT  
PLAN,**

**DEBTOR.**

**CASE NO. 10-13528  
CHAPTER 11**

**FRED WESTFALL, et al,**

**Plaintiffs,**

**v.**

**THE MILLENNIUM MULTIPLE  
EMPLOYER WELFARE BENEFIT  
PLAN, et al.,**

**Defendants.**

**ADVERSARY NO. 10-01175**

**PLAINTIFFS' UNOPPOSED MOTION FOR ORDER GRANTING  
VOLUNTARY DISMISSAL OF CERTAIN DEFENDANTS AND PLAINTIFFS'  
MOTION FOR VOLUNTARY DISMISSAL OF CONSPIRACY CLAIM**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiffs respectfully ask the Court for an Order granting voluntary dismissal of Plaintiffs' claims against Defendant The Millennium Multiple Employee Welfare Benefit Plan. This Defendant does not oppose Plaintiffs' request for dismissal.

Pursuant to Federal Rule of Civil Procedure 41(a)(2) Plaintiffs further ask this Court for an Order voluntarily dismissing Plaintiffs' Cause of Action for Conspiracy against all defendants.

Even though this is a voluntary dismissal, under Rule 41 the dismissal can only be accomplished by order of this Court because certain defendants have already filed Answers in this action.

Respectfully submitted,

/s/ Anthony L. Vitullo

Anthony L. Vitullo  
State Bar No. 20595500  
FEE, SMITH, SHARP & VITULLO, LLP  
Three Galleria Tower  
13155 Noel Road, Suite 1000  
Dallas, Texas 75240  
(972) 934-9100 Telephone  
(972) 934-9200 Facsimile  
[lvitullo@feesmith.com](mailto:lvitullo@feesmith.com)

John L. Malesovas  
State Bar No. 12857300  
MALESOVAS LAW FIRM  
816 Congress Avenue, Suite 1265  
Austin, Texas 78701  
(512) 708-1777 Telephone  
(512) 708-1779 Facsimile  
[john@malesovas.com](mailto:john@malesovas.com)

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on June 17, 2011, I electronically filed the foregoing document with the clerk of the court for the U.S. Bankruptcy Court, Western District of Oklahoma, using the electronic case filing system of the Court. The electronic filing system sent a "Notice of Electronic Filing" to attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. Notice was electronically mailed to the following parties:

Regan Strickland Beatty on behalf of Defendant American General Life Insurance Company  
[beattyr@crowedunlevy.com](mailto:beattyr@crowedunlevy.com), [donna.hinkle@crowedunlevy.com](mailto:donna.hinkle@crowedunlevy.com);  
[kerryann.wagoner@crowedunlevy.com](mailto:kerryann.wagoner@crowedunlevy.com); [ecf@crowedunlevy.com](mailto:ecf@crowedunlevy.com)

Lawrence T Bowman on behalf of Defendant Senglaub Financial Group  
[lbowman@cozen.com](mailto:lbowman@cozen.com)

Brandee L Bruening on behalf of Defendant American General Life Insurance Company  
[brandee.bruening@crowedunlevy.com](mailto:brandee.bruening@crowedunlevy.com),  
[ecf@crowedunlevy.com](mailto:ecf@crowedunlevy.com); [jody.moore@crowedunlevy.com](mailto:jody.moore@crowedunlevy.com)

David A. Cheek on behalf of Defendant Senglaub Financial Group  
[dcheek@cheekfalcone.com](mailto:dcheek@cheekfalcone.com), [bzerbe@cheekfalcone.com](mailto:bzerbe@cheekfalcone.com); [cf@thefalcones.com](mailto:cf@thefalcones.com)

Timothy E. Headley on behalf of Defendant Senglaub Financial Group  
[theadley@cozen.com](mailto:theadley@cozen.com)

John B. Heatly on behalf of Defendant Penn Mutual Life Insurance Company  
[jheatly@fellerssnider.com](mailto:jheatly@fellerssnider.com), [sshahan@fellerssnider.com](mailto:sshahan@fellerssnider.com); [mbellar@fellerssnider.com](mailto:mbellar@fellerssnider.com)

G. Rudy Hiersche on behalf of Defendant Ridge Insurance, Inc.  
[rudy@hlfokc.com](mailto:rudy@hlfokc.com), [robin@hlfokc.com](mailto:robin@hlfokc.com)

William H. Hoch on behalf of Defendant American General Life Insurance Company  
[hochw@crowedunlevy.com](mailto:hochw@crowedunlevy.com), [donna.hinkle@crowedunlevy.com](mailto:donna.hinkle@crowedunlevy.com);  
[kerryann.wagoner@crowedunlevy.com](mailto:kerryann.wagoner@crowedunlevy.com); [ecf@crowedunlevy.com](mailto:ecf@crowedunlevy.com)

Gary Kessler on behalf of Defendant D-A Financial Services  
[jw@kesslercollins.com](mailto:jw@kesslercollins.com)

Fred A. Leibrock on behalf of Defendant Republic Bank & Trust  
[faleibrock@phillipsmurrah.com](mailto:faleibrock@phillipsmurrah.com), [knogle@phillipsmurrah.com](mailto:knogle@phillipsmurrah.com); [ecf@phillipsmurrah.com](mailto:ecf@phillipsmurrah.com)

Erin K Lovall on behalf of Defendant Millennium Multiple Employer Welfare Benefit Plan  
[elovall@fslhlaw.com](mailto:elovall@fslhlaw.com), [pfranklin@fslhlaw.com](mailto:pfranklin@fslhlaw.com); [dskierski@fslhlaw.com](mailto:dskierski@fslhlaw.com); [mholmes@fslhlaw.com](mailto:mholmes@fslhlaw.com)

John L. Malesovas on behalf of Plaintiff Aberty Corporation  
[john@malesovas.com](mailto:john@malesovas.com), [marisela@malesovas.com](mailto:marisela@malesovas.com)

Robert B Millner on behalf of Defendant American General Life Insurance Company  
[robert.millner@snrdenton.com](mailto:robert.millner@snrdenton.com)

Foster Reese on behalf of Defendant Tony Fakouri  
[freese@helmsgreene.com](mailto:freese@helmsgreene.com), [agallaway@helmsgreene.com](mailto:agallaway@helmsgreene.com); [jbreaud@helmsgreene.com](mailto:jbreaud@helmsgreene.com)

Bryon L. Romine on behalf of Defendant D-A Financial Services  
[blr@kesslercollins.com](mailto:blr@kesslercollins.com)

G. Blaine Schwabe on behalf of Defendant Millennium Multiple Employer Welfare Benefit Plan  
[gschwabe@mswerb.com](mailto:gschwabe@mswerb.com), [swilliams@mswerb.com](mailto:swilliams@mswerb.com)

Additionally, a true and correct copy of the foregoing pleading was sent to the following parties in this proceeding by first class mail.

Glenn Arons  
14710 Pettit Way  
Rockville, MD 20854-6015

Lee E. Bains  
1901 Sixth Avenue North  
2400 Regions/Harbert Plaza  
Birmingham, AL 35203

Amy Boyea  
2000 East Lamar Blvd., Ste 600  
Arlington, TX 76006

Robert Alan Bragalone  
2100 Ross Avenue, Suite 2800  
Dallas, TX 75201

Craig Brinker  
Jennifer O'Hara Calvin  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

Karan Cummings Ciotti  
Ogden Gibson Broocks Longoria & Hall  
711 Louisiana St  
1900 Pennzoil South Tower  
Houston, TX 77002

Gary Lee Clark  
13415 Vista Bonita  
San Antonio, TX 78216

Jonathan Cocks  
3205 Walker Drive  
Richardson, TX 75082

Karen C. Corallo  
2000 McKinney Avenue, Ste 1900  
Dallas, TX 75201

Larry Cress  
1030 Regional Park Drive  
Houston, TX 77060

Joe Denson  
703 W. Sunflower Rd.  
Cleveland, MS 38732

Jeffrey Dubose  
702 Starcrest  
New Braunfels, TX 78130

Jeffrey Dubose  
593 Lakeview Boulevard  
New Braunfels, TX 78130

John Duvall  
17 Bendwood Street  
Sugarland, TX 77478

John P. Duvall  
1431 Bayshore Drive  
Kemah, TX 77565

David Esman  
10127 Crestwater Circle  
Magnolia, TX 77354

Timothy E. Headley  
1717 Main Street, Suite 2300  
Dallas, TX 75201

Heartland Financial Advisors Group  
1603 Crawford  
Parsons, KS 67357

Infinity Wealth Management  
27 W. 430 Warrenville Road  
Warrenville, IL 60555

Stephen C Jackson  
1901 Sixth Avenue North  
2400 Regions/Harbert Plaza  
Birmingham, AL 35203

Larry E. Kelly  
5400 Bosque Blvd., Ste 301  
Waco, TX 76710

Gary Kessler  
2100 Ross Avenue, Suite 750  
Dallas, TX 75201

Glenn Russell LeMay  
1900 West Loop South, Suite 1000  
Houston, TX 77027

Edward Eugene Leisher  
6500 Rock Springs Dr., Suite 450  
Bethesda, MD 20817

Christopher Lubbers  
1603 Crawford  
Parson, KS 67357

David McDowell  
3200 Southwest Freeway, Suite 2920  
Houston, TX 77027

R. Timothy Muth  
1000 North Water Street  
Suite 1700  
Milwaukee, WI 53202

Timothy ORourke  
2425 West Loop South, Suite 525  
Houston, TX 77027

One Source Financial Services  
5800 Padre Blvd., Suite 210  
South Padre Island, TX 78597

James Palumbo  
5800 Padre Blvd., Suite 210  
South Padre Island, TX 78597

LaToyia Watkins Pierce  
6688 N. Central Expressway, Ste 850  
Dallas, TX 75206

Matthew G. Pletcher  
1300 Post Oak Boulevard, Ste 2500  
Houston, TX 77056

Jo Christine Reed  
1221 Avenue of the Americas  
New York, NY 10020

Foster Reese  
1700 Pacific, Ste 1000  
Dallas, TX 75201

Bryon L. Romine  
2100 Ross Avenue, Suite 750  
Dallas, TX 75201

Ben Sartin  
9100 IH-10 West, Suite 205  
San Antonio, TX 78230

SecurePlan Administrators, LLC  
401 W. Main Street  
Norman, OK 73069

Doug Skierski  
10501 N Central Expressway, Suite 106  
Dallas, TX 75231

John Straley  
33 W. Higgins Road, Suite 5000  
South Barrington, IL 60010

Mark Strefner  
33 W. Higgins Road, Suite 5000  
South Barrington, IL 60010

Donald Jay Trudeau  
2187 Atlantic Street  
Stamford, CT 06902

Michael Ward  
2680 Bishop Drive, Suite 204  
San Ramon, CA 94583

Raymond Wicker  
10011 W. Gulf Bank, Suite A  
Houston, TX 77040

/s/ Anthony L. Vitullo  
**ANTHONY L. VITULLO**